

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

GLEN KERLEY

PLAINTIFF

VS.

CAUSE NO. 1:18-CV-273-LG-RHW

**TORRENCE “LITTLE BOOSIE” HATCH,
LARRY ANDERSON, JOHN AND JANE
DOES 1-10, XYZ COMPANIES 1-10**

DEFENDANTS

AMENDED ANSWER, DEFENSES, AND COUNTERCLAIM OF DEFENDANTS

COME NOW the Defendants, Torrence “Little Boosie” Hatch and Larry Anderson, by and through counsel, and files this their Amended Answer, Defenses, and Counterclaim to the Plaintiff’s Complaint as follows:

FIRST DEFENSE / MOTION TO DISMISS

The Plaintiff’s Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE / MOTION TO DISMISS

The Plaintiff’s Complaint should be dismissed, pursuant to Fed. R. Civ. P. 12(b)(1),-(2),-(3),-(4),-(5),-(7).

THIRD DEFENSE

The Defendants hereby include, allege, and incorporate each and every defense available to them as set forth in Fed. R. Civ. P. 8(c).

FOURTH DEFENSE

The Plaintiff’s damages, if any, are the responsibility of third parties over whom

the Defendants have or had no control or right of control.

FIFTH DEFENSE

The Plaintiff's claims are barred in whole, or in part, due to his failure to mitigate alleged damages.

SIXTH DEFENSE

The Plaintiff's claims are barred in whole, or in part, by the doctrine of unclean hands.

SEVENTH DEFENSE

The Plaintiff's claim for punitive damages is unconstitutional and in violation of Amendments V, VIII, and XIV of the United States Constitution, and in violation of Sections 14 and 28 of the Mississippi Constitution.

RESERVATION OF DEFENSES

Contingent on facts that may be revealed by investigation and discovery, the Defendants expressly reserve the right to raise any additional defenses, rights, or counter-claims which may be applicable.

ANSWER

For their separate Answer to the Plaintiff's Complaint, paragraph by paragraph, the Defendants state as follows:

1. As to the paragraphs contained within Section "1. Parties," the allegations contained within subsections "a," "b," and "c" are admitted. The remaining allegations contained therein are denied.
2. As to the paragraph contained within Section "2. Jurisdiction and Venue," the allegations contained therein are denied as stated.
3. As to the paragraph contained within numbered Section 1, the

allegations contained therein are denied.

4. As to the paragraph contained within numbered Section 2, the allegations contained therein are denied.

5. As to the paragraph contained within numbered Section 3, the allegations contained therein are denied.

6. As to the paragraph contained within numbered Section 4, the allegations contained therein are denied.

7. As to the paragraph contained within numbered Section 5, the allegations contained therein are denied.

8. As to the paragraph contained within numbered Section 6, the allegations contained therein are denied.

9. As to the paragraph contained within numbered Section 7, the allegations contained therein are denied.

10. As to the paragraph contained within numbered Section 8, the allegations contained therein are denied.

11. As to the paragraph contained within numbered Section 9, the allegations contained therein are denied as stated.

12. As to the paragraph contained within numbered Section 10, the allegations contained therein are denied.

13. As to the paragraph contained within numbered Section 11, the allegations contained therein are denied.

14. As to the paragraph contained within numbered Section 12, the allegations contained therein are denied.

15. As to the paragraph contained within numbered Section 13, the allegations contained therein are denied.

16. As to the paragraph contained within numbered Section 14, the allegations contained therein are denied.

17. As to the paragraph contained within numbered Section 15, the allegations contained therein are denied.

18. As to the paragraph contained within numbered Section 16, the allegations contained therein are denied.

19. As to the paragraph contained within numbered Section 17, the allegations contained therein are denied.

20. As to the paragraph contained within numbered Section 18, the allegations contained therein are denied as stated.

21. As to the paragraph contained within numbered Section 19, the allegations contained therein are denied.

22. As to the paragraph contained within numbered Section 20, the allegations contained therein are denied.

23. As to the paragraph contained within numbered Section 21, the allegations contained therein are denied.

24. As to the paragraph contained within numbered Section 22, the allegations contained therein are denied.

25. As to the paragraph contained within numbered Section 23, the allegations contained therein are denied.

26. As to the paragraph contained within numbered Section 24, the allegations contained therein are denied.

27. As to the paragraph contained within numbered Section 25, the allegations contained therein are denied.

28. As to the paragraph contained within numbered Section 26, the

allegations contained therein are denied.

29. As to the paragraph contained within numbered Section 27, the allegations contained therein are denied.

30. As to the paragraph contained within numbered Section 28, the allegations contained therein are denied.

31. As to the paragraph contained within numbered Section 29, the allegations contained therein are denied.

32. As to the paragraph contained within numbered Section 30, the allegations contained therein are denied.

33. As to the paragraph contained within numbered Section 31, the allegations contained therein are denied.

34. As to the paragraph contained within numbered Section 32, the allegations contained therein are denied.

35. As to the paragraph contained within numbered Section 33, the allegations contained therein are denied.

36. As to the paragraph contained within numbered Section 34, the allegations contained therein are denied.

37. As to the paragraph contained within numbered Section 35, the allegations contained therein are denied.

38. As to the paragraph contained within numbered Section 36, the allegations contained therein are denied.

39. As to the paragraph contained within numbered Section 37, the allegations contained therein are denied.

40. As to the paragraph contained within numbered Section 38, the

allegations contained therein are denied.

41. As to the paragraph contained within numbered Section 39, the allegations contained therein are denied.

42. As to the paragraph contained within numbered Section 40, the allegations contained therein are denied.

43. As to the paragraph contained within numbered Section 41, the allegations contained therein are denied.

44. As to the paragraph contained within numbered Section 42, the allegations contained therein are denied.

45. As to the paragraph contained within numbered Section 43, the allegations contained therein are denied.

46. As to the paragraph contained within numbered Section 44, the allegations contained therein are denied.

47. As to the paragraphs following the heading or statement "WHEREFORE, PREMISES CONSIDERED," any and all allegations contained therein are denied. The Defendants would further state that the Plaintiff is not entitled to any relief whatsoever.

AND NOW, having answered the Plaintiff's Complaint, paragraph by paragraph, the Defendants respectfully requests that this action be dismissed and that the Plaintiff be assessed any and all costs and attorney's fees incurred by the Defendants in this matter.

COUNTERCLAIM

COME NOW the Defendants/Counter-Plaintiffs, Torrence Hatch and Larry Anderson, and file this their Counterclaim, and in support thereof would show unto the

Court the following:

Counterclaim Count I – Abuse of Legal Process

1. The Plaintiff/Counter-Defendant, Glen Kerley, instituted or commenced the subject legal proceedings without a reasonable or proper basis for doing so, with the filing or commencement of such action being motivated by a purpose or reason other than that permitted by law.

2. The Plaintiff/Counter-Defendant instituted or commenced these proceedings with malice and/or without probable cause, thereby resulting in damage to the Defendants/Counter-Plaintiffs.

3. It is expected that these proceedings will terminate in favor of the Defendants/Counter-Plaintiffs.

Counterclaim Count II – Interference with Prospective Business Relations

4. Through the conduct or actions of the Plaintiff/Counter-Defendant in attempting to interfere with the prospective business relations and interfere with one or more existing contracts involving the Defendants/Counter-Plaintiffs, individually or via their business interests, said Defendants/Counter-Plaintiffs have suffered pecuniary damages. These damages include, but are not limited to, the reduced value of their business interest(s), and lost income.

Counterclaim Count III – Assault and Battery

5. The Plaintiff/Counter-Defendant without proper grounds, willfully and maliciously threatened, touched, pepper sprayed, and/or struck the Defendants/Counter-Plaintiffs without just cause.

6. As a direct and proximate result of the willful, wanton, malicious and intentional actions of Plaintiff/Counter-Defendant, the Defendants/Counter-Plaintiffs suffered bodily injuries, mental anguish, humiliation and embarrassment.

Counterclaim Count IV – Intentional Infliction of Emotional Distress

7. The Plaintiff/Counter-Defendant intentionally caused severe emotional distress to the Defendants/Counter-Plaintiffs by his willful, wanton, extremely reckless and indifferent conduct, including but not limited to engaging in an unprovoked physical attack and assault and battery upon the persons of the Defendants/Counter-Plaintiffs which directly led to their bodily injuries and other damages.

8. The actions of the Plaintiff/ Counter-Defendant exceeded all bounds of decency and were done with the purpose of inflicting emotional distress and fear.

9. The aforesaid action by said Plaintiff/Counter-Defendant was so outrageous in character and was so extreme in degree that a reasonable member of the community would regard such conduct as atrocious, going beyond all possible bounds of decency and as being utterly intolerable in a civilized community.

10. As a direct and proximate result of the Plaintiff/Counter-Defendant's extremely, reckless and indifferent conduct, the Defendants/Counter-Plaintiffs suffered severe pain, emotional distress, mental anguish and physical injuries as the result of being assaulted, threatened, and pepper sprayed.

Counterclaim Count V – Negligent Infliction of Emotional Distress

11. The Plaintiff/Counter-Defendant negligently caused severe emotional distress to the Defendants/Counter-Plaintiffs by his extremely negligent actions and

conduct, including but not limited to engaging in the assault and pepper spraying of and upon the persons of the Defendants/Counter-Plaintiffs which directly led to their severe physical injuries.

12. The Plaintiff/Counter-Defendant negligently caused severe emotional distress to the Defendants/Counter-Plaintiffs by his extremely negligent actions, including but not limited to engaging in the assault, battery, and pepper spraying of the Defendants/Counter-Plaintiffs which directly led to their severe physical injuries.

13. As a direct and proximate result of the Plaintiff/Counter-Defendant's extremely negligent, reckless and indifferent conduct, the Defendants/Counter-Plaintiffs suffered severe pain, emotional distress, and mental anguish.

WHEREFORE, based on the foregoing, the Defendants/Counter-Plaintiffs respectfully request that this Court:

- a. Enter judgment for the Defendants/Counter-Plaintiffs on their counts or claims for Abuse of Legal Process, Interference with Prospective Business Relations, Assault and Battery, Intentional Infliction of Emotional Distress, and Negligent Infliction of Emotional Distress;
- b. Award the Defendants/Counter-Plaintiffs for their damages, legal fees and costs arising out of this matter; and
- c. Award the Defendants/Counter-Plaintiffs such other relief as this Court deems just and appropriate.

This, the 24th day of August, 2018.

Respectfully submitted,

Torrence "Little Boosie" Hatch and
Larry Anderson

BY: /s/ Eduardo A. Flechas
Eduardo A. Flechas

Of Counsel:

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CERTIFICATE OF SERVICE

I, Eduardo A. Flechas, do hereby certify that a true and correct copy of the foregoing instrument was filed with the Court's MEC/ECF system, with notice of such filing being provided to all counsel of record.

SO CERTIFIED, this, the 24th day of August, 2018.

/s/ Eduardo A. Flechas
Eduardo A. Flechas